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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1944 OF 2007
IN
INCOME TAX APPEAL (L) NO. 846 OF 2007

The Commissioner of Income Tax ... Appellant

Versus

Shabin Mitha ... Respondent

Mr. R.G. Bhat with Mr. P.S. Sahadevan for the Appellant.

None for the Respondent.

CORAM: F.I. REBELLO &
R.S.MOHITE, JJ.
DATED: DECEMBER 19, 2007

P.C.

1. Heard both parties.

2. This Notice of Motion has been filed for condonation of 101 days delay in filing the main appeal. On perusal of the affidavit in support of the Notice of Motion, we find that the delay has been sought to be explained. It is contended before us that in December, 2005, the processing of judicial mattes was shifted from the Law Ministry to the Income Tax Department and this has resulted in several administrative difficulties. In certain cases all the papers have not been received. The panel counsel were also involved in dealing with

older cases received from the Law Ministry. Taking into account all these facts, we propose to accept the cause shown for condonation of delay subject to levy of costs. Notice of Motion is therefore, allowed and the delay in filing the appeal stands condoned subject to payment of costs of Rs.2500/- which is to be paid directly to the respondents within a period of six weeks from today. It is made clear that the department will be at liberty to recover the costs from the officer responsible for causing the delay.

3. It is also made clear that if the respondent has any grievance relating to non effecting of service of this Notice of Motion, he is at liberty to apply for recall of this order.

(R.S.MOHITE, J.) **(F.I.REBELLO, J.)**